

Federal Acquisition Regulation

16.303

development area. The product of the contract is usually a report showing the results achieved through application of the required level of effort. However, payment is based on the effort expended rather than on the results achieved.

16.207-3 Limitations.

This contract type may be used only when—

- (a) The work required cannot otherwise be clearly defined;
- (b) The required level of effort is identified and agreed upon in advance;
- (c) There is reasonable assurance that the intended result cannot be achieved by expending less than the stipulated effort; and
- (d) The contract price is \$150,000 or less, unless approved by the chief of the contracting office.

[48 FR 42219, Sept. 19, 1983, as amended at 75 FR 53133, Aug. 30, 2010]

Subpart 16.3—Cost-Reimbursement Contracts

16.301 General.

16.301-1 Description.

Cost-reimbursement types of contracts provide for payment of allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the contracting officer.

16.301-2 Application.

(a) The contracting officer shall use cost-reimbursement contracts only when—

- (1) Circumstances do not allow the agency to define its requirements sufficiently to allow for a fixed-price type contract (*see* 7.105); or
- (2) Uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.

(b) The contracting officer shall document the rationale for selecting the contract type in the written acquisition plan and ensure that the plan is

approved and signed at least one level above the contracting officer (*see* 7.103(j) and 7.105). *See also* 16.103(d).

[76 FR 14547, Mar. 16, 2011, as amended at 77 FR 12927, Mar. 2, 2012]

16.301-3 Limitations.

(a) A cost-reimbursement contract may be used only when—

- (1) The factors in 16.104 have been considered;
- (2) A written acquisition plan has been approved and signed at least one level above the contracting officer;
- (3) The contractor's accounting system is adequate for determining costs applicable to the contract or order; and
- (4) Prior to award of the contract or order, adequate Government resources are available to award and manage a contract other than firm-fixed-priced (*see* 7.104(e)). This includes appropriate Government surveillance during performance in accordance with 1.602-2, to provide reasonable assurance that efficient methods and effective cost controls are used.

(b) The use of cost-reimbursement contracts is prohibited for the acquisition of commercial items (*see* parts 2 and 12).

[48 FR 42219, Sept. 19, 1983, as amended at 50 FR 1742, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 59 FR 64785, Dec. 15, 1994; 60 FR 48248, Sept. 18, 1995; 63 FR 34073, June 22, 1998; 76 FR 14547, Mar. 16, 2011; 77 FR 12927, Mar. 2, 2012; 77 FR 44066, July 26, 2012]

16.302 Cost contracts.

(a) *Description.* A cost contract is a cost-reimbursement contract in which the contractor receives no fee.

(b) *Application.* A cost contract may be appropriate for research and development work, particularly with nonprofit educational institutions or other nonprofit organizations.

(c) *Limitations.* *See* 16.301-3.

[48 FR 42219, Sept. 19, 1983, as amended at 72 FR 27384, May 15, 2007]

16.303 Cost-sharing contracts.

(a) *Description.* A cost-sharing contract is a cost-reimbursement contract in which the contractor receives no fee and is reimbursed only for an agreed-upon portion of its allowable costs.